

LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Senate Committee on Judiciary, Corrections, and Housing
Testimony of Senator Lena C Taylor
Senate Bill 410 – Drivers License Suspensions for Drug Violations
Thursday, February 14th, 2008

Honorable Colleagues,

Thank you for hearing testimony today on Senate Bill 410, a bill regarding the practice of suspending drivers' licenses for drug violations. As the bill's Senate author, I'm here today on its behalf.

For the past year, this committee has traveled around Wisconsin on the State of the Justice System Tour. We've heard from lawyers, judges, inmates, corrections employees, families, and anyone else who cared enough to testify before us. We found some great things on the tour: Lawyers, judges, and everyday citizens giving their time for justice; corrections officials and inmates working together to fix our prisons. These were truly inspiring reports.

But there was also a less encouraging side of the testimony we heard. It came through in the words of the young man who left prison with nothing but a bus ticket—no food, no job, no place to spend the night. And from the father, who told us how he'd found himself a job but lost it when his parole officer didn't return the employer's phone calls. We heard all too many stories like those, with different players but always the same ending: Poverty, recidivism, revocation, and hopelessness.

Today, with this bill, our committee can help write a new ending to many of these stories. Senate Bill 410 ends the requirement that courts suspend the driver's license of anyone convicted of a drug violation. It doesn't prevent judges from suspending licenses; it simply gives them a choice. As we were told throughout the Tour, that choice can be critical to the many citizens trying to rebuild their lives after a drug conviction.

Most jobs around the state are contingent on an employee's ability to drive. For hundreds of thousands of people in Wisconsin, losing their license and losing their job is the same thing. This is all the more true for those convicted of drug offenses, men and women already laboring under debilitating addictions and the stigma of criminal records. To strip them of their driving privileges—at the moment when they most need the stability and support that a job and a wage can bring—is an invitation for them to fail in the rehabilitative process. It's one more nearly insurmountable obstacle on a path already littered with them.

That path, though, is exactly the one our state chooses. Our laws impose these barriers before people who want to recover, who want to find jobs, and who want to contribute. Are there

reasons we do so? Of course. But they do not justify crippling tens of thousands of our fellow citizens as the current system does. The facts show, incontrovertibly, that our current policy of suspending licenses drives people to unemployment and, frequently, to crime. We must ask if we are truly better off for doing so. I don't believe we are.

Shutting people out from opportunity won't solve our state's problems with drugs, crime, or unemployment; it'll make those problems worse. What these people need is a chance to make a legitimate start in our society. They need real hope that they can move beyond the lives that led to their convictions; they need the tools to find a job and contribute; they need to know that our state will support them as they strive to build better futures for themselves. In that spirit, my fellow senators, I ask you to support Senate Bill 410.

Thank you.



Tamara GRIGSBY

Wisconsin State Representative
18th Assembly District

**Testimony Before the
Senate Committee on Judiciary, Corrections, and Housing
February 14, 2008
Senate Bill 410**

I want to thank Chairwoman Taylor for scheduling Senate Bill 410 for a public hearing. I would also like to take this opportunity to thank Senator Taylor for authoring this important bill. As the Assembly author of this bill I greatly appreciate the willingness of the Committee to listen to the testimony you will be hearing today.

A 2006 study conducted by the University of Wisconsin Milwaukee Employment and Training Institute reported that 89,489 Milwaukee County residents, mostly young and poor, are under driver's license suspension or revocation. Most of these people's licenses have been suspended for reasons other than traffic offenses. One of the reasons that many drivers in the state have had their license suspended is as a result of a drug violation.

Current federal law requires Wisconsin courts to suspend the motor vehicle operating privilege of a person, including a juvenile, if the person is convicted of any drug violation. In 2007 over 11,000 revocations or suspensions were due to drug convictions. That means that over 11,000 Wisconsin residents were unable to transport themselves or their families to work or school or the grocery store, or anywhere else for an infraction that had nothing to do with their ability to safely operate their vehicle on our roadways.

We do not automatically suspend a person's driver's license for any number of alcohol related offenses that do not involve a motor vehicle (drunk and disorderly, supplying alcohol to a minor, public drunkenness), so why does it make sense to automatically suspend an individual's drivers license for a drug related offense that does not involve the operation of a motor vehicle?

Having access to a valid driver's license is essential to achieving economic success. It takes a car to reach many of the family-supporting jobs which often times require a person to travel outside the parameters of the public transportation system.

SB 410 would make that license suspension for drug violations discretionary with the courts rather than mandatory. It would allow the court to consider each offense on a case-by-case basis and allow a judge to decide if license suspension is the appropriate sanction. When a crime is committed, the punishment should fit the crime. Suspension of drivers' licenses for unsafe driving is an important and valid sanction to ensure public safety. However, suspending a license for non-driving related offenses makes it impossible for low income individuals to keep their jobs, support their families, and pay their fines.

I thank the committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.



STATE REPRESENTATIVE
FREDERICK P. KESSLER

WISCONSIN STATE ASSEMBLY

12TH DISTRICT

February 14, 2008

Senate Committee on Judiciary, Corrections, and Housing

Senate Bill 410

Representative Fred Kessler

Chairwoman Taylor, and members of the Senate Committee on Judiciary, Corrections, and Housing, thank you for holding a public hearing on Senate Bill 410.

I am a co-sponsor and supporter of Senate Bill 410 for several reasons. First, it is important to note that this bill does not prevent the court from suspending the driving privileges of an individual convicted of a drug violation; rather it removes the provision which instructs the court to automatically suspend the individual's driving privileges following the conviction. This bill returns that decision-making authority to the court. It is my sense that judges should have the discretion to interpret the facts of the case before them and make a ruling based on the circumstances of the situation.

Also, I believe that this bill serves as one small piece in a larger effort to remedy the disproportionate manner in which our laws impact urban areas and minorities. Recall that due to Wisconsin's staggeringly high statistics of unequal sentencing of minorities, the Governor was compelled to establish a commission to study the problem of these racial disparities over the course of this legislative session.

One area of the legal system that is especially lopsided in enforcement and sentencing against minorities are drug laws. Despite governmental studies that show drug usage is relatively equal among races and ethnicities, people of color are punished substantially more often. Therefore, it stands to reason that a statute that calls for the mandatory suspension of an individual's driving privileges following a drug conviction would disproportionately affect minorities.

An individual convicted of a drug violation will undoubtedly be punished for violating the law. Hopefully, they will also receive some sort of drug treatment so they can overcome their substance problems. However, removing an individual's driving privileges for non-traffic law violations only puts up unnecessary roadblocks on their road to recovery. It is often the case that to take away a person's ability to drive also takes away their ability to work. Without a job, it seems counter-intuitive that an individual convicted of a drug violation would be more likely give up drugs and move beyond their addiction.

Thank you and please join with me in supporting Senate Bill 410.

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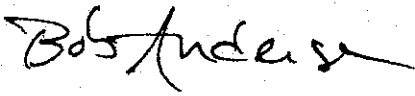
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TO: Senate Committee on Judiciary, Corrections and Housing

FROM: Bob Andersen 
Dave Pifer

RE: Senate Bill 410, relating to Motor Vehicle Operating Suspensions for Controlled Substance Violations

DATE: February 14, 2008

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. One of the projects of Legal Action of Wisconsin is the Legal Intervention for Employment (LIFE) project, through which we represent low income people in the restoration of their driver's licenses.

The **mandatory** suspension of driver's licenses for drug violations is one of the largest impediments to employment for low income people. The state does not need to make suspensions mandatory and can make them **permissive** orders to be entered in the discretion of the court. The proposal contained in SB 410 to make these orders permissive has been strongly supported in the past by the Department of Transportation and the Wisconsin District Attorneys Association.

This proposal was also recommended a few years ago by a **Driver's License Policy Reform Task Force** in Milwaukee, which recommended 4 different policy proposals relating to a 3 month amnesty program, driver's education, community service options, and making the 5 year license suspensions discretionary rather than mandatory for drug convictions. The Task Force included many representatives of community organizations in the Milwaukee area and was headed by Tyrone Dumas, the Milwaukee Jobs Initiative, the Private Industry Council of Milwaukee County, the Wisconsin Council on Children and Families, and LAW.

A committee of the task force was involved in promoting this proposal to make drug suspensions permissive. The committee included Circuit Court Judge John Siefert; Circuit Court Judge Chuck Klein; Milwaukee County District Attorney Mike McCann; Ladette Austin of Chairman Lee Holloway's Office, County Board of Supervisors; Eloisa Gomez of Making Connections Milwaukee; and Marilyn Walczak of Justice 2000.



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Although the task force contacted the legislature on this proposal, the legislation was never introduced.

In 1990, federal law required each state to make the suspension of driver's licenses mandatory for drug convictions, unless a state governor certified that the governor was opposed to making this mandatory and the governor certified that the legislature adopted a resolution opposing the mandatory suspension of licenses for drug violations. If a state refused to either adopt such a mandatory law or to adopt certifications and resolutions in opposition to making this mandatory, the state would be severely penalized by the loss of federal funds.

Unfortunately, in 1991 Wisconsin enacted such a mandatory law and subsequently became one of only 18 states that chose this option. 32 other states made this discretionary. Wisconsin adopted what is now s. 961.50 in 1991 Wis. Act 39, the budget bill. The statute mandates that driver's licenses be suspended for 6 months to 5 years. In 1993, the statute was amended to make the suspension effective when a person applies for a license, to be consistent with the provision under federal law.

Last year there were 11,406 licenses withdrawn for drug convictions and there were 14,849 the year before. What makes this policy particularly objectionable is that, under s. 961.50 (3), the mandatory 6 month to 5 year license suspension does not begin to run until the person applies for a license! The result is that many people do not even go in to have their licenses reinstated, because of the futility of applying for a license that will begin to be suspended for as much as 5 years. The further result is that all these drivers return to the roads, without a license and without insurance. They will not pay forfeitures for ordinance violations, because they do not have a license to be suspended. Many of them begin to get into even more trouble with the law, by driving without a license. Some of those are incarcerated and begin lives that will continue to lead them into getting into even further trouble with the law.

Of course, this has a profound effect on the safety of other drivers and on costs to the municipalities and to the state, if these people continue to drive. Unfortunately, surveys taken by DOT show that many people do continue to drive, because driving is so essential to work. Indeed, this is one of the principal reasons that we favor this proposal, because of the need to enable these people to maintain self supporting employment.

According to the Department of Transportation, states may still exercise this option to make suspensions permissive, without losing any federal funds. In order to accomplish this objective, SB 410 must be enacted and a joint resolution must be adopted, indicating the approval of the legislature in making this permissive. The governor must certify his approval of this policy as well. SJR 82 is the resolution that contains this affirmation by the legislature. SJR 82 is scheduled for a hearing by the Senate Committee on Transportation and Tourism on February 20, 2008.

Milwaukee POLICE Association

Local #21 IUPA-AFL-CIO



OFFICE: 6310 WEST BLUEMOUND ROAD, MILWAUKEE, WI 53213
PHONE: (414) 778-0740 • FAX: (414) 778-0757 • e-mail: police@execpc.com
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February 14, 2008

Senator Lena Taylor
Judiciary, Corrections, and Housing Chairperson
Room 415 South
State Capitol
PO Box 7882
Madison, WI 53707-7882

Dear Senator Taylor:

On behalf of the approximately 1,700 law enforcement officers in the Milwaukee Police Association (MPA) please accept this correspondence as support for SB410, relating to suspensions of the motor vehicle operating privilege for a controlled substance violation. The MPA is supporting SB410 because the current system in place is not working and needs to be reformed.

In the County of Milwaukee there are approximately 90,000 people that have either revoked or suspended driver licenses (DL). The lack of people able to obtain a valid license is the main hindrance in keeping people in our community from obtaining a job.

Under current law when a person is convicted of a drug violation their DL has to be suspended for a minimum of six months. The MPA's stance is that a judge should have the discretion to suspend that license or not. This system is currently being done in 33 other states and Wisconsin should follow these states who are involved in the federal opt out mandate. The DOT suspends DLs for many reasons. In the State of Wisconsin, judges in circuit courts and municipal courts can suspend and revoke a DL for offenses that have nothing to do with driving. Beside people losing their license for a drug conviction, they can lose it for failure to pay a municipal fine or even for skipping out of school. The MPA understands that the key for people to get and maintain a job is to have a DL. The current system is just a revolving door for a person who has their DL suspended or revoked. Upon examining available statistics obtained from the DOT, it is apparent that this problem is occurring throughout the entire State of Wisconsin, and in particular in Milwaukee. The MPA believes that this bill is one step to break that cycle of the revolving door for people that have suspended or revoked driver licenses.

Sincerely,

MILWAUKEE POLICE ASSOCIATION

Thomas E. Fischer
Vice President
Local #21, IUPA, AFL-CIO

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TO: Committee on Judiciary, Corrections and Housing

FROM: Family Law Section, State Bar of Wisconsin

DATE: February 14, 2008

RE: 2007 Assembly Bill 309

The State Bar's Family Law Section supports 2007 Assembly Bill 309 as amended by Assembly Substitute Amendment 2 relating to submitting custody study reports to the court and parties and admitting custody study reports in accordance with the rules of evidence.

If custody or physical placement is contested in a family law matter, the court may order the preparation of a custody evaluation to investigate and report to the court on the conditions of a child's home, each parent's performance of parental duties and responsibilities, whether there is domestic abuse, and any other matter relevant to the best interests of the child. The investigation normally also focuses on the custody and physical placement factors set forth in Wis. Stat. § 767.41(5), and in many cases, ultimate recommendations are made to the court regarding what physical placement schedule or legal custody status the person or entity completing the report believes is in the child's best interest.

Unfortunately, treatment of these reports varies widely from county to county. In some counties, the writer of the report is always available to authenticate the report, provide testimony to support the report and justify the ultimate conclusions; all parties have the opportunity to question the writer. In some counties, however, the report is simply submitted to the court and the writer does not appear in court to be cross-examined; the conclusions and bases therefore are not subjected to testing in the crucible of cross-examination. In some counties, the parents or their attorneys are not provided with the report on a timely basis so that they may review it, digest it and, if necessary, gather evidence to support or rebut any portion of it.

(Continued on back)

State Bar of Wisconsin

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Not surprisingly, these reports typically carry great weight with the court given the intended depth and breadth of the investigation. There is concern that some courts may prejudge the issues before hearing any testimony because courts are provided with the report prior to a hearing. This concern is compounded when the evaluator him or herself is not available for questioning by the parties at the hearing.

This bill creates uniformity across the State of Wisconsin regarding the admission of these very important evaluations and eliminates the concern that a court may prejudge the case based on the contents of the report by requiring that a custody evaluation only be submitted to the court at the time it is properly admitted into evidence and requiring that the authors of these evaluations be available for questioning by the parties at a hearing. In addition, this bill provides sufficient advance notice to the parties of the contents and conclusions of the report by requiring submission of the report to the parties at least 10 days before the hearing when the report will be introduced into evidence.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.

If you have questions about this memorandum, please contact Sandy Lonergan, Government Relations Coordinator, at slonergan@wisbar.org or (608) 250-6045.

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